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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/715,861	11/19/2003	Otto Gosweiler	010564/00081	5610
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EXAMINER				
PATEL, NIHIR B				
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3772				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/715,861

Applicant(s)

GOSWEILER, OTTO

Examiner

NIHIR PATEL

Art Unit

3772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 November 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 14-25, 38 and 40 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 38 is/are allowed.
- 6) ☒ Claim(s) 14-25 and 40 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB-08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed on November 19th, 2010, with respect to claims 14-25, 38 and 40 have been fully considered and are persuasive. The previous final rejection of the office action mailed on September 1st, 2010 has been withdrawn.

Allowable Subject Matter

2. The indicated allowability of claims 14-25 and 40 is withdrawn in view of the newly discovered reference(s) to Kuriyama (US 7,195,015). Rejections based on the newly cited reference(s) follow.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims **14-25 and 40** are rejected under 35 U.S.C. 102(e) as being anticipated by Kuriyama (US 7,195,015).

5. **As to claim 14**, Kuriyama teaches an apparatus that comprises:

a gas mask **2** having a filter port **5** used to provide filtered air (see **fig. 1; col. 4 lines 5-10**);

a blower **16** operatively connected to the filter port of the gas mask (see **fig. 1; col. 4 lines 1-10**), the blower being capable of forcing air into the gas mask (see **fig. 1; col. 4 lines 1-10**);

a detection **11** and control device operatively connected to the blower which detects a pressure condition within the gas mask and controls operation of the blower (see **col. 4 lines 25-55**), and an outflow valve **7** integrated with the mask which releases air within the mask when the outflow valve is in an open position and retains air within the mask when the outflow valve is in a closed position (see **fig. 1; col. 4 lines 25-55**);

wherein the detection and control device comprises:

an optoelectric device **11** that detects a position of the outflow valve **7** of the mask (see **fig. 1; col. 4 lines 20-30**).

6. **As to claim 15**, Kuriyama teaches an apparatus wherein the optoelectric device **11** is positioned in the mask (see **fig. 1**) at a location suitable for detecting the open or closed position of the outflow valve (see **col. 4 lines 20-55**).
7. **As to claim 16**, Kuriyama teaches an apparatus wherein the optoelectric device **11** and the power source are connected by a coupling (see **col. 4 lines 50-55**).
8. **As to claim 17**, Kuriyama teaches an apparatus wherein the optoelectric device **11** detects the outflow valve in the open position (see **col. 4 lines 35-45**), and wherein the optoelectric device transmits a signal to the processor to reduce air flow from the blower upon detecting the open position (see **col. 4 lines 55-65**).

9. **As to claim 18**, Kuriyama teaches an apparatus wherein the processor processes the signal transmitted by the optoelectric device and transmits a signal to the blower (see col. 4 lines 55-65).
10. **As to claim 19**, Kuriyama teaches an apparatus wherein the signal transmitted by the processor causes the blower to reduce air flow upon detecting the open position (see col. 4 lines 55-65).
11. **As to claim 20**, Kuriyama teaches an apparatus wherein the optoelectric device detects the outflow valve in the open position, and wherein the optoelectric device transmits a signal to the processor to terminate air flow from the blower upon detecting the open position (see col. 4 lines 20-50).
12. **As to claim 21**, Kuriyama teaches an apparatus wherein the processor processes the signal transmitted by the optoelectric device and transmits a signal to the blower position (see col. 4 lines 55-65; col. 5 lines 1-10).
13. **As to claim 22**, Kuriyama teaches an apparatus wherein the processor transmits a signal to the blower to cease air flow and to terminate the output of power by the power source upon the optoelectric device detecting the open position of the outflow valve (see col. 4 lines 55-65; col. 5 lines 1-10).
14. **As to claim 23**, Kuriyama teaches an apparatus wherein the optoelectric device detects the outflow in the closed position, and wherein the optoelectric device transmits a signal to the processor to increase air flow upon detecting the closed position (see col. 4 lines 25-35).

15. **As to claim 24**, Kuriyama teaches an apparatus wherein the processor processes the signal transmitted by the optoelectric device and transmits a signal to the blower upon detecting the closed position (see col. 4 lines 25-35).

14. **As to claim 25**, Kuriyama teaches an apparatus wherein the optoelectric device detects the outflow valve in the closed position, and wherein the optoelectric device transmits a signal to the processor to increase air flow upon detecting the closed position (see col. 4 lines 25-35).

15. **As to claim 40**, Kuriyama teaches an apparatus that comprises:

a gas mask 2 (see fig. 1; col. 3 lines 55-60) having a filter port 5 (see col. 3 lines 55-65; col. 4 lines 1-10) used to provide filtered air and an outflow valve 7 (see col. 3 lines 60-67) having an open position to release air from the gas mask (see col. 4 lines 35-45) and a closed position to retain air in the mask (see col. 4 lines 25-35);

a blower 16 (see fig. 1; col. 4 lines 1-10) operatively connected to the filter port (see col. 4 lines 1-10) of the gas mask, the blower being capable of forcing air to the gas mask (see col. 4 lines 1-10), wherein the blower is operated by a 9 driven by a portable energy source (see col. 4 lines 55-65);

an optoelectric device 11 (see fig. 1; col. 4 lines 10-20) disposed in the mask at a location suitable for detecting the open position or closed position of the outflow valve (see col. 4 lines 15-35) and operatively connected to the blower (see col. 4 lines 55-65), wherein the optoelectric detects a pressure condition within the gas mask and controls an operation of the blower (see col. 4 lines 55-65), and

a processor connected to the optoelectric device via first conductive element 17 (see col. 4 lines 45-55) and connected to the power source via a second conductive element 18 (see col. 4

lines 45-65), wherein the processor receives a signal from the optoelectric device to terminate the operation of the blower when the outflow valve is in a closed position (**see col. 4 lines 35-45**) and receives a signal from the optoelectric device to activate the operation of the blower air flow when the outflow valve is in closed position (**see col. 4 lines 25-35**).

Allowable Subject Matter

16. Claim **38** is allowed. The prior art does not disclose a pressure sensor positioned inside the gas mask that detects air pressure in the gas mask in combination with an optoelectric device and the pressure sensor working cooperatively.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIHIR PATEL whose telephone number is (571)272-4803. The examiner can normally be reached on 7:30 to 4:30 every other Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nihir Patel/
Examiner, Art Unit 3772

/Patricia Bianco/
Supervisory Patent Examiner, Art Unit 3772